

NO. 25831

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

MAUI MEADOWS HOMEOWNERS ASSOCIATION, Petitioners,

vs.

PETER YOUNG, Chairperson of the State of Hawai'i Commission on Water Resource Management; CHIYOME FUKINO, M.D., Commission on Water Resource Management; MEREDITH CHING, Commission on Water Resource Management; BRIAN C. NISHIDA, Commission on Water Resource Management; CLAYTON DELA CRUZ, Commission on Water Resource Management; HERBERT M. RICHARDS, JR., Commission on Water Resource Management, Respondents.

ORIGINAL PROCEEDING

ORDER DENYING MAUI MEADOWS HOMEOWNERS ASSOCIATION'S PETITION FOR WRIT OF MANDAMUS TO THE COMMISSION ON WATER RESOURCE MANAGEMENT

(By: Moon, C.J., Levinson, Nakayama, Acoba, JJ., and Circuit Judge Kochi, assigned by reason of vacancy)

Upon consideration of Petitioner Maui Meadows Homeowners Association's petition for a writ of mandamus directed to the Commission on Water Resource Management, the papers in support and opposition, and the records and files herein, it appears that: (1) Petitioner asks this court to issue a writ of mandamus directing the State Commission on Water Resource Management to designate the 'Iao Aquifer and Waihe'e Aquifer in Maui County as water management areas; (2) pursuant to HRS § 602-5(4), this court, in its discretion, can issue a writ of mandamus to compel public officers to fulfill the duties of their offices; (3) mandamus relief is available to compel an official to perform a duty allegedly owed to an individual only if the individual's claim is clear and certain, the official's duty is ministerial and so plainly prescribed as to be free from doubt, and no other

remedy is available. Barnett v. Broderick, 84 Hawai'i 109, 111, 929 P.2d 1359, 1361 (1996) (citing Azurin v. Von Raab, 803 F.2d 993 (9th Cir. 1986), cert. denied, 483 U.S. 1021 (1987)); and (4) Petitioner fails to demonstrate that it is entitled to a writ of mandamus. Therefore

IT IS HEREBY ORDERED that the petition for a writ of mandamus to the State Commission on Water Resource Management is denied.

DATED: Honolulu, Hawai'i, October 15, 2003.

D. Kapua'ala Sproat
of Earthjustice for
petitioners on the petition

Yvonne Izu, deputy attorney
general for respondents in
opposition